

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 19 February 2003

Division: Growth Management

Bulk Item: Yes X No

Department Marine Resources

AGENDA ITEM WORDING:

Approval to advertise an Ordinance amending Chapter 5.5 to create a new Combustion Vessel Exclusion Zone for portions of the area surrounding Whale Harbor Channel lying between Windley Key and Upper Matecumbe on the ocean side of the islands and to modify two definitions concerning Combustion Vessel Exclusion Zones.

ITEM BACKGROUND:

Extensive boater use in the Whale Harbor Channel area has been a point of concern for some time. Current concerns revolve around the use of the shallow-water flats areas broadly surrounding the channel and the conflicting interaction between boaters who like to use the shallow sand bar at the margin of the channel and those who are in transit through the area. The solution to the problem, particularly for the days when the area is most heavily used, is a combination of stronger on the water enforcement, the establishment of an additional regulatory zone, and a minor realignment of the channel to widen it slightly. The Sheriff's Office and the Fish and Wildlife Commission have committed to enhanced enforcement. The combustion Engine Exclusion Zone ordinance will help protect the shallow areas while still allowing the use of the sand bar. Widening the Channel will provide for better access through the channel, while focusing the use of the sand bar further away from the center of the channel.

PREVIOUS RELEVANT BOCC ACTION:

None

CONTRACT/AGREEMENT CHANGES:

NA

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: None

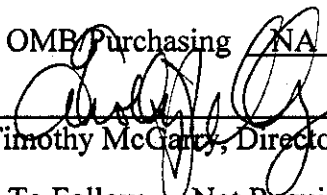
BUDGETED: Yes No

COST TO COUNTY: None

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No X AMOUNT Per Month Year

APPROVED BY: County Atty X OMB/Purchasing NA Risk Management NA

DIVISION DIRECTOR APPROVAL: 
Timothy McGarty, Director of Growth Management

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM NO.: 18

ORDINANCE NO. 2003

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 5.5 MONROE COUNTY CODE (BOATS, DOCKS, AND WATERWAYS) TO CREATE A COMBUSTION ENGINE EXCLUSION ZONE ON SHALLOW AREAS ADJACENT TO WHALE HARBOR CHANNEL, TO AMEND CERTAIN DEFINITIONS, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF INCONSISTENT ORDINANCE CLAUSES, PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the shallow areas adjacent to Whale Harbor Channel receive extensive use by boaters either in transit through the area or for recreational purposes; and

WHEREAS, increasing impacts to the shallow areas surrounding Whale Harbor Channel have occurred as a result of the increased boater activities; and

WHEREAS, user conflicts currently exist between those who transit the area and those who use the areas adjacent to the Channel; and

WHEREAS, the City of Islamorada, Village of Islands has recognized some the aforementioned concerns, but does not have jurisdiction to manage them as they are beyond the Islamorada's 1,200 foot jurisdiction; and

WHEREAS, the Village Council has provided a Resolution requesting that the County provide specific assistance to resolve the user conflicts now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, MONROE COUNTY, FLORIDA THAT the following revision is made to Chapter 5.5, Monroe County Code:

Section 1. Revise Chapter 5.5, Article I, (i) and (k) to read as follows:

(i) *Motorized vessel* means any vessel, which is propelled or powered by machinery and which is capable of being used as a means of transportation on water.

(k) *Combustion Vessel Exclusion Zone* means that no person shall operate a motorized vessel (as defined in Article I of this Chapter), by use of a combustion engine, or in some cases where specifically established - an electric motor, in any area spatially defined as "Combustion Engine Exclusion Zone" and which is so identified as a "Combustion Engine Exclusion Zone" by appropriate signage.

Section 2 Revise the title of Chapter 5.5-108 (c) to read

(c) Combustion vessel exclusion zones No person shall operate a motorized vessel in the following areas spatially defined as a "Combustion Vessel Exclusion Zone."

Section 3

Add the following Section, Sec. 5.5-108 (c) (4) to read:

(4) Whale Harbor Channel "Flats": To include the shallow areas adjacent to the northeast and southwest sides of Whale Harbor Channel on the ocean side of U.S. Highway 1. The approximate length of the zone extends from the Whale Harbor Channel Aids to Navigation Numbers 8 and 9 southeastward to Whale Harbor Channel Aids to Navigation

Marine Resources

Numbers 1 and 2. The width of the zone is defined, on either side of the channel, by the adjacent shallow areas and the small channels farther to the northeast or southwest of the Whale Harbor Channel. The zones are approximately triangular on either side of Whale Harbor Channel. The Zones will specifically exclude the areas known as the "Sand Bar," shallow, sandy areas immediately contiguous to Whale Harbor Channel on either side.

Section 2. Severability

If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 3. Repeal of inconsistent ordinance clauses.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 4. Inclusion in the Monroe County Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. Effective date.

This Ordinance shall be filed with the Office of the Secretary of State of the State of Florida, and will take effect upon receipt by that agency.

PASSED AND ADOPTED by the Board of County Commissioners, Monroe County, Florida at a regular meeting of said Board held on the 19th day of March, A.D., 2003.

Mayor Dixie Spehar
Mayor Pro Tem Murray Nelson
Commissioner George Neugent
Commissioner Charles McCoy
Commissioner David Rice


BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

BY: _____
MAYOR/CHAIR PERSON

(SEAL)

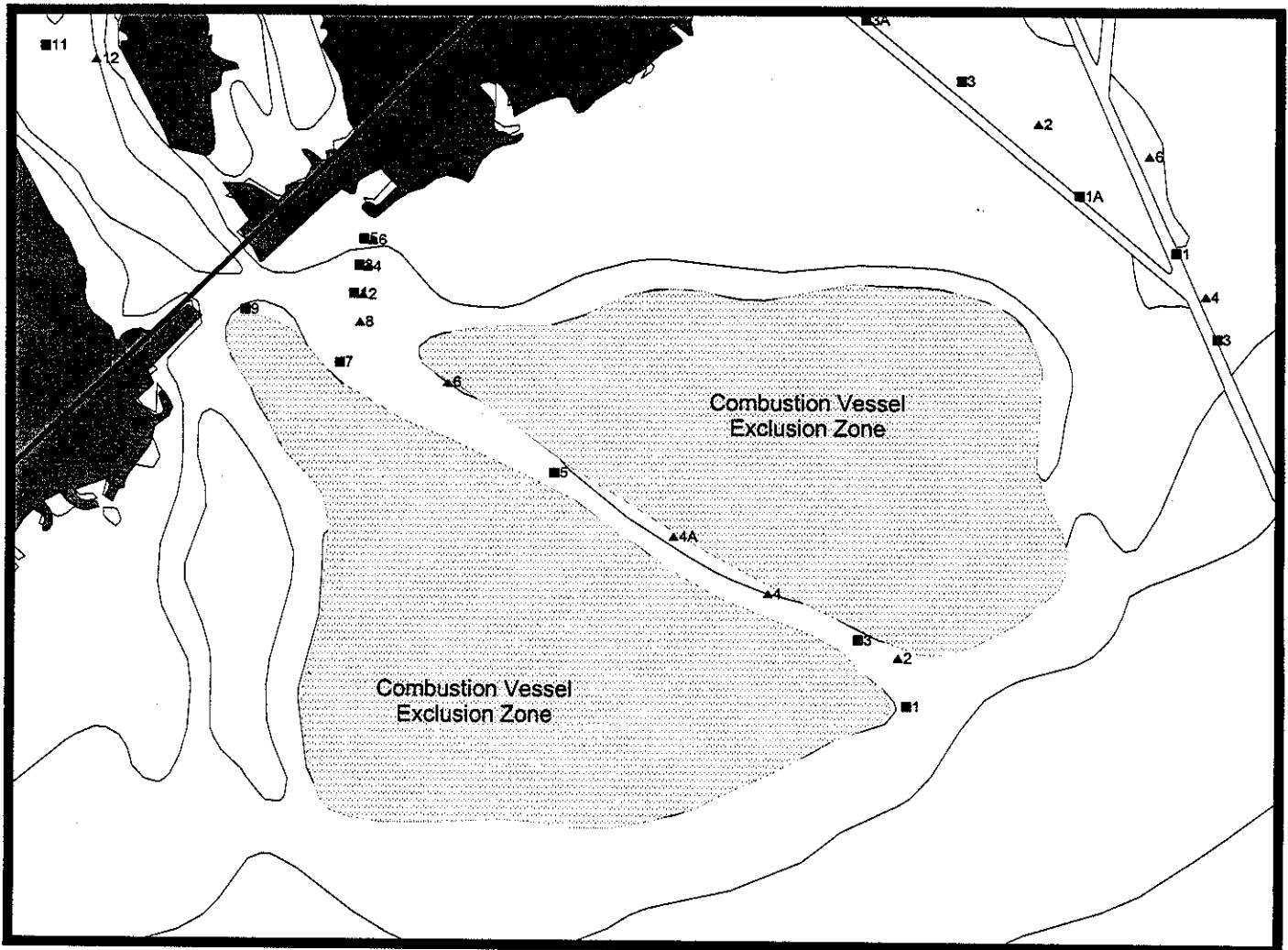
ATTEST: DANNY I. KOLHAGE, CLERK

BY: _____
DEPUTY CLERK


APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
BY: 
ATTORNEY'S OFFICE

ATTACHMENT A

**Map of Boating Restricted Area
for
The Holiday Isle Sandbar**



0.1 0 0.1 0.2 0.3 0.4 0.5 Miles

A horizontal scale bar with alternating black and white segments, corresponding to the distance markers in miles.